



California Department of  
Social Services



Child Care Advocate Program

## ***Child Care Center Self-Assessment Guide***

### **WAIVERS, EXCEPTIONS AND EXEMPTIONS**



COMMUNITY CARE LICENSING DIVISION  
"Promoting Healthy, Safe and  
Supportive Community Care"

# **CHILD CARE CENTER GUIDELINES TO WAIVERS, EXCEPTIONS AND EXEMPTIONS**

## **INTRODUCTION**

Child care centers are required to maintain compliance with regulations at all times. In some cases, applicants/licensees may wish to use alternative methods which, while not in strict compliance with the regulations, meet the intent of the regulations and allow for more effective operation of the facility. In these cases Community Care Licensing may issue waivers, exceptions or exemptions to regulations. **Please note:** Community Care Licensing cannot grant waivers or exceptions to law.

Waivers and exceptions can be used in areas involving services, procedures, equipment, space, staff qualifications or staff ratios. Experimental and demonstration projects can also be allowed using the waiver and/or exception process. The main requirement before licensing will consider granting a waiver and/or exception request is that the intent of the regulation guaranteeing safe, healthful, and adequate services must be met.

This guide provides definitions of waivers, exceptions and exemptions, and basic information on how to request one.

## **WHAT IS A WAIVER?**

A "Waiver" is written permission, granted by licensing, to use an alternative that meets the intent of a specific regulation. A waiver is based on a facility-wide need or circumstance and concerns facility and staff issues and is not tied to a specific individual. Waivers remain in effect regardless of changes in clients and staff and cannot be transferred from one facility to another.

**EXAMPLE:** Regulations require that there be 75 square feet of outdoor activity space for each child. The facility can accommodate 50 children indoors, but only 30 outdoors. If the facility wants a licensed capacity for 50 children, a waiver to the regulation would be required.

### **WHAT IS AN EXCEPTION?**

An “Exception” is written permission, granted by licensing, to use an alternative that meets the intent of a specific regulation and is based on a unique need of a specific child or staff person. Typically, exceptions for children concern ages or medical issues. Exceptions for staff usually concern staff qualifications. Exceptions cannot be transferred to other children, staff, child care facilities or licensees.

EXAMPLE: Regulations require that fully qualified teachers have 12 postsecondary semester or equivalent quarter units in early childhood education or child development and at least six months of child care work experience. If the facility wants to hire a teacher with only four months of work experience, an exception would be needed.

### **WHAT IS AN EXEMPTION?**

An “Exemption” is written permission, granted by licensing, to allow an employee or adult with a criminal conviction to work or live in a child care facility. An exemption is granted for a particular employee or adult and specific conviction(s). Some convictions are prohibited from exemption by law.

EXAMPLE: Regulations/laws prohibit employees of facilities from having criminal records. If a facility wants to hire an employee who has been convicted of a crime (shoplifting, burglary, etc.) an exemption from the regulations/laws would be needed.

### **HOW TO APPLY FOR A WAIVER/EXCEPTION?**

Waivers and exceptions must be approved by the District Office before the facility implements the practice described in the request. A facility that operates in violation of any regulation without an approved waiver or exception is subject to citation.

Waiver and exception requests must be made in writing to the District Office responsible for licensing the facility. They must include substantiating evidence supporting the request. This usually involves explaining the background, how the intent of the regulation(s) will still be met, and letters/correspondence to support the benefit in granting the request. They must also be signed by the applicant/licensee or their designated representative.

## **WHAT THE LICENSING PROGRAM ANALYST CONSIDERS WHEN REVIEWING A REQUEST FOR A WAIVER OR EXCEPTION?**

The information needed by the Licensing Program Analyst to evaluate the request will vary depending on the nature of the waiver or exception. It is best to contact the Licensing Program Analyst prior to submitting the request to determine exactly what information will need to be submitted.

When reviewing a request the Licensing Program Analyst will consider the following:

1. That the requested alternative still meets the intent of the original regulation and health and safety standards.
2. That the request does not mean other regulations will not be met.
3. Whether additional requirements need to be required to ensure the intent of the regulation is still met.
4. That the request does not negatively impact other children in care.

## **WHAT THE APPLICANT/LICENSEE/ADMINISTRATOR SHOULD CONSIDER WHEN PREPARING THE REQUEST**

WAIVER REQUESTS – These should identify an alternate method or plan explaining how the intent of the specific regulation will still be met. There should be an explanation why this request is needed and how the alternate plan will be implemented.

EXCEPTION REQUESTS – These should provide the name, age, and special circumstances of the child/staff for whom the “Exception” is being requested. Supporting documentation should be dated and signed by the person providing the input whether it be a licensee, parent, physician, judge, professor, etc.

The type of documentation may vary, but some general rules do apply. If the request is for a physical plant requirement, a sketch of the facility floor plan and plot plan should be submitted. If the request concerns staffing issues, a schedule of assignments should be included. The documentation should include necessary information to ensure a balanced consideration of the request.

### **MAKING REQUESTS FOR EXEMPTIONS**

Requests for “Exemptions” are handled by the Caregiver Background Check Bureau. The Caregiver Background Bureau will notify the licensee when an exemption is required and advise them as to what information will be needed to evaluate the request. They will also advise the licensee as to whether or not the employee may continue to work in the facility pending evaluation of the exemption request.

NOTE: If the licensee learns that an employee has a conviction before being contacted by the Caregiver Background Check Bureau, the licensee should notify the facility's Licensing Program Analyst for direction on how to proceed.